

EPSOM DOWNS RACING SEASON 2016

<u>Report of the:</u>	Clerk of the Conservators
<u>Contact:</u>	Tim Richardson
<u>Annexes/Appendices</u> (attached):	<u>Annexe 1</u> – Fencing dates calendar
<u>Other available papers</u> (not attached):	Minutes of the meetings of the Epsom and Walton Downs Consultative Committee held on 4 November 2002, 12 June 2010, 16 June 2015 and 28 September 2015.

REPORT SUMMARY

This report informs the Conservators of dates for race meetings in 2016 and presents a request from Epsom Downs Racecourse for extensions to the periods permitted for fencing.

RECOMMENDATION (S)

- (1) That the Conservators note the dates of the 2016 racing season for Epsom Downs.
- (2) That the Conservators consider and determine an application from Epsom Downs Racecourse for consent under the Byelaws to bring forward the start of the fencing period for the Upper Tattenham Enclosure and Lonsdale Enclosure for the Derby festival to 16 May 2016.
- (3) That the Conservators consider and determine an application from Epsom Downs Racecourse for consent under the Byelaws to extend the fencing period for the Lonsdale Enclosure to 15 June 2016.
- (4) That the Conservators consider and determine an application from Epsom Downs Racecourse for consent under the Byelaws to extend the fencing period for the Lonsdale Enclosure to enable fencing to remain in place between the dates of 8 – 14 August 2016.

Notes

1 Introduction

- 1.1 Epsom Downs Racecourse has informed the Clerk of the dates of its race meetings in 2015. These are as follows:

- Wednesday 20 April
- Friday 3 June (Ladies' Day)
- Saturday 4 June (Derby Day)
- Thursday 30 June (Evening)
- Thursday 7 July (Evening)
- Thursday 14 July (Evening)
- Thursday 28 July (Evening)
- Monday 29 August (Bank Holiday)
- Tuesday 30 August
- Thursday 8 September
- Sunday 25 September

2 Applications for racing-related activities

2.1 Specific elements of the applications require the Conservator's consideration: an application for the extension of the fencing period for the Upper Tattenham Enclosure for the Derby weekend, and applications for the extension of the fencing period for the Lonsdale Enclosure. The details of these applications are set out below.

3 Applications for extensions to the fencing period

3.1 Paragraph (4) (d) (i) of section 17 of the Epsom and Walton Downs Regulation Act 1984 (the Act) permits the Racecourse to erect fencing for the Upper Tattenham Enclosure, Lonsdale Enclosure (and other enclosures) 14 days prior to each race event, and requires its removal within 10 days after each race event, unless there is an overlap with the preparatory period for the next event. Fencing erected for the Enclosures outside these periods requires the consent of the Conservators under Byelaw 2 (i) (a).

3.2 An application has been received from the Racecourse for extensions to the fencing period for steel security fencing and turnstile blocks for the Upper Tattenham Enclosure and Lonsdale Enclosures in 2016. These are detailed below for the Conservators' consideration.

4 Application for extension of the Upper Tattenham Enclosure fencing period

4.1 Epsom Downs Racecourse has requested permission for one extension to the fencing period for the Upper Tattenham Enclosure during the 2016 racing season. The requested extension is as follows:

4.1.1 A **4-day extension** to the set-up period for steel security fencing and turnstile blocks for the Upper Tattenham Enclosure between **Monday 16 May – Thursday 19 May 2016**. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is permitted to install this fencing from **Friday 20 May 2016**. An identical application to this was approved by the Conservators for 2015.

5 Application for extension of the Lonsdale Enclosure fencing period

5.1 Epsom Downs Racecourse has requested permission for three extensions to the fencing period for the Lonsdale Enclosure during the 2016 racing season. The requested extensions are as follows:

5.1.1 A **4-day extension** to the set-up period for steel security fencing and turnstile blocks for the Lonsdale Enclosure between **Monday 16 May – Thursday 19 May 2016**. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is permitted to install this fencing from Friday 20 May 2016. An identical application to this was approved by the Conservators for 2015.

5.1.2 A **1-day extension** to the fencing period for steel security fencing and turnstile blocks for the Lonsdale Enclosure on **Wednesday 15 June 2016**. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is required to remove this fencing on 15 June 2016, before it is permitted to re-install it the following day, Thursday 16 June 2016. An identical application to this was approved by the Conservators for 2015.

5.1.3 A **7-day extension** to the fencing period for steel security fencing and turnstile blocks for the Lonsdale Enclosure between **Monday 8 August – Sunday 14 August 2016**. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is required to remove this fencing on 8 August 2016, before it is permitted to re-install it on Monday 15 August 2016. An identical application to this was approved by the Conservators for 2015.

6 Summary and calendar

6.1 A summary of the fencing extensions requested is included in the table below. A calendar of fencing dates is also attached as the Annexe to this report.

Fencing location	Fencing extension requested	No. of days requested	Requested in 2015?
Upper Tattenham Enc.	16 – 19 May	4 days	Yes. Granted.
Lonsdale Enc.	16 – 19 May	4 days	Yes. Granted.
Lonsdale Enc.	15 June	1 day	Yes. Granted.
Lonsdale Enc.	8-14 August	7 days	Yes. Granted.

7 Previous decisions

- 7.1 A fencing-period extension in advance of the Derby Festival has been requested by the Racecourse and granted by the Conservators for the past 14 years, following an initial application by the Racecourse in advance of the 2002 Derby Festival. This initial decision was made by the Conservators following advice from the Clerk that whilst the Act did not specifically empower them to vary the fencing period, as long as they acted within their general duty to protect the Downs and did not authorise any activity which would prevent the public from exercising their rights of access, they were not prohibited from considering it.
- 7.2 The Conservators have subsequently considered and approved similar extensions in each year they have been requested.
- 7.3 The Epsom and Walton Downs Consultative Committee has considered the fencing extensions granted by the Conservators at its meetings on 4 November 2002, 12 June 2010, 16 June 2015 and 28 September 2015. At the meeting of 28 September 2015 the Committee received a report inviting its views on the fencing extensions granted for 2015. In response to this invitation, one Member of the Committee expressed that they did not agree with the view that the Conservators had powers under the Act or Byelaws to approve fencing extensions. The view of the Council's Head of Legal and Democratic Services with regard to the legal powers available to the Conservators is detailed in section 8 of this report, below.
- 7.4 In 2015, the Conservators approved a 4-day extension to the fencing period for the Upper Tattenham Enclosure. A 4-day, 1-day and 7-day extension to the fencing period for the Lonsdale Enclosure was approved.

8 Legal clarification

- 8.1 Landowners generally would normally be permitted to erect temporary fences without consent. However, the erection of such structures on the Downs is prohibited by virtue of the byelaws made under the 1984 Act. Specifically, byelaw 2(i) provides that:
- “A person shall not, without the consent of the Conservators, on the Downs:
- (a) enclose any part of the Downs or erect any building shed or other structure thereon or construct any roads or parking places,
 - (b) place any tent stall show exhibition swing roundabout or other like thing...”
- 8.2 The above restriction is subject to Section 17, which, notwithstanding the byelaws, grants rights to the racecourse to erect fencing in the preparatory period/racing period.

- 8.3 The proposal in this case is beyond the rights granted under section 17 and therefore requires the consent of the Conservators under the Byelaws. In deciding whether to grant consent, the Conservators will need to have regard to their primary duty under section 10 of the 1984 Act to preserve the Downs, noting the company's rights under section 17, and consider what impact granting consent would have on the preservation of the Downs, and on the rights of the public over the Downs.

9 Conclusion and recommendations

- 9.1 The Conservators are requested to consider and determine the applications from Epsom Downs Racecourse for the extension of the fencing period as detailed in sections 4 and 5 of this report.